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and certain subsidiaries

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re:) In Proceedings Under Chapter 11
)
BAPTIST FOUNDATION OF ARIZONA, an) Case Nos. 99-13275-ECF-GBN through 99-
Arizona nonprofit 501(c)(3) corporation, and) 13364-ECF-GBN
related proceedings,)
) All Cases Jointly Administered Under Case
Debtors.) No. 99-13275-ECF-GBN
)
) **DEBTORS' OBJECTION TO CLAIM OF**
) **PIERSON CONSTRUCTION COMPANY**
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Pursuant to Rule 3007 of the Bankruptcy Rules of Procedure and Section 502(a) of the Bankruptcy Code, Debtor and Debtor-in-Possession, Baptist Foundation of Arizona, Inc. (and certain of its subsidiaries, who also may be co-debtors, as applicable; collectively “**BFA**”), submits the following objection to the proof of claim filed by Pierson Construction Company (“**Pierson**”). In support of this objection, BFA offers the following memorandum of points and authorities.

MEMORANDUM IN SUPPORT OF OBJECTION

I. FACTS

1. Pierson is a BFA vendor that provided BFA with certain construction services.
2. On February 10, 2000, Pierson filed a proof of claim seeking to recover \$50,699.01. The entire amount is classified as an unsecured claim. The claim comprises twelve allegedly unpaid invoices for construction services.

III. BASIS FOR OBJECTIONS

Objections to claims are governed by 11 U.S.C. § 502(a), which provides that “[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest, . . . objects.” Section 502(b) provides that “[i]f such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount.” Federal Rule of Bankruptcy Procedure 3001(f) provides that a proof of claim filed in accordance with the rules “shall constitute prima facie evidence of the validity and amount of the claim.” The burden of proof is on the objecting party to produce evidence equivalent in probative value to that of the creditor to rebut the prima facie effect of the proof of claim. However, “the ultimate burden of persuasion is always on the claimant.” In Re Holm, 931 F.2d 620, 623 (9th Cir. 1991) (citing 3 L. King, *Collier on Bankruptcy* § 502.02, at 502-22 (15th ed. 1991) (footnotes omitted)). A properly supported objection to a claim initiates a contested matter under the Bankruptcy Rules of Procedure. See Fed. R. Bankr. P. 3007 (adv. comm. note).

Although Pierson has attached invoices to its proof of claim that appear to detail the services performed, those documents do not adequately support Pierson’s claim. BFA has examined its books and records and believes that it never received Pierson’s invoices

contemporaneous to the time the services allegedly were performed. Moreover, BFA's records indicate that Pierson has been paid in full on all projects for which it provided services. Finally, the invoices bear no indication that BFA approved the alleged work, and BFA cannot locate any other evidence of approval or acceptance.

III. CONCLUSION

For the above-described reasons, BFA respectfully requests that this Court schedule an evidentiary hearing on Pierson's claim, and require Pierson to demonstrate the merits of its claim by a preponderance of the admissible evidence presented at the hearing.

RESPECTFULLY SUBMITTED this 7th day of November, 2000.

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By: /s/ Craig D. Hansen

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